

Protecting Adoption Act of 2015 Frequently Asked Questions

What is the Protecting Adoption Act?

The Protecting Adoption Act is a bipartisan piece of legislation that ensures birthfathers rights are protected so adoptions remain secure from future interruption. **The Protecting Adoption Act** would create a National responsible Father Registry to coordinate state registries and encourage states to link to the national database. Responsible father registries also expedite the stable placement of children and protect the safety of mothers while promoting the rights of birthfathers.

What is a National Responsible Father Registry?

A National Father Registry 1) creates a mechanism that empowers both men and women to take responsibility of their rights as parents, 2) promotes privacy for individuals in the adoption placement process, 3) interlinks current individual state registries, 4) and most importantly, ensures the safety and welfare of children placed in adoptive families

34 States currently have Responsible Father Registries. In these states courts are mandated to check the registries in the event of an adoption and contact the birthfathers before granting termination of rights. This ensures adoptions will not be jeopardized in the future.

Why is a national responsible father registry needed?

A national registry is needed to not only protect adoptions across state lines, but also to protect adoptions in states without registries. A national registry system provides a defined process to help expedite the placement of children in stable, permanent families.

For states choosing to participate in the national registry, the Department of Health and Human Services can provide grants to create or modify existing registries.

What does the bill do?

The Protecting Adoption Act, through the creation of the National Responsible Father Registry, would encourage all 34 states with already existing registries to link to the national system. This bill would authorize the Secretary of Health and Human Services to provide for grants to states who wish to participate in the registry or to modify existing registries in accordance with standards set forth in the legislation. The Secretary would also be required to establish a nationwide educational campaign to inform the public of the registry' existence, its advantages, and the rights and responsibilities afforded by it.

How would this work? *(See the accompanying flowchart for a graphical depiction)*

A possible father could register with his State's Responsible Father Registry (if the state provides one) or directly to the national registry, maintained by the Secretary of HHS. This would take place in a designated time period, which varies according to State Law. Registration would be voluntary and free of Charge. Proof of Paternity would not be required at the time of registration.

When a proceeding that may terminate a fathers rights, enter a child into state custody, or involve a planned or pending adoption is filed for a child whose father is not legally established , and "eligible party" will be able to request a search of the National Registry.

“Eligible parties” are public or private licensed adoption or child placement agencies, state courts and licensed attorneys representing a party in an adoption, a child placement, or termination of rights hearing.

Participating states would be required to provide for a process that registers possible fathers to receive notice of a proceeding. Content of such notice would be dependent on the requirement under the law of the state in which the proceeding is pending.

Who is affected by a National Responsible Father Registry?

Possible Fathers who may wish to assert paternity and be given timely notice of proceedings involving a particular child, such as an adoption or state custody proceeding. Possible fathers may wish to assert paternity in order to have an opportunity to be heard in court actions, even if proceedings take place in a different state.

Children whose adoption or child placement decisions are potentially delayed. This could inhibit placement while caseworkers attempt to locate possible fathers or disrupted because of a late claim by a possible father who was not notified of the proceedings.

Birthmothers who are not able to disclose or choose not to disclose information of the birthfather for such reasons as:

- Are unable to identify the father of their child.
- Don’t wish to disclose in the interest of their privacy.
- Have cases of past/potential abuse and do not wish to disclose possible father’s names to authorities for their own safety.

Adoptive parents who want certainty for themselves and their adoptive children without risk of a potential paternity claim after their adoptive placement is made.

Courts which must often engage in lengthy and costly cross-state litigation due to lack of coordination between existing State Responsible Father Registries.

Is this new or radical?

No, 34 states already have responsible father registries. These states are Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, and Wyoming.

This bill would simply provide a means to link these registries into a consolidated, national database and enable men to register directly with the National Registry.

The U.S. Supreme Court found New York’s responsible father registry constitutional in *Lehr v. Robertson* (463 U.S. 248) (1983).

Does this bill require all States to set up a State registry?

No. The bill simply authorizes the Secretary of HHS to encourage all States with already

existing state registries to contribute their data to a new National Registry, or to make grants to states that want to create registries or want to revise their existing registries in ways that meet standards set forth in the bill.

How long does an unwed man have to register?

The time period by which a man must register varies according to state law. For example, in New Mexico and Virginia a man must register within the gestation period or up to 10 days after the child's birth. The state with the shortest registration period is Utah (within the gestation period and up to 1 business day after birth). The states with the longest registration period are Connecticut and Pennsylvania (within the gestation period and up to 60 days after birth). Registration is voluntary, free of charge, and does not require a DNA test.

Could fathers use the registry to find children or mothers to find potential fathers?

No. Only eligible parties (public or private licensed adoption or child placement agencies, licensed attorneys representing a party in an adoption, a child placement, or termination of rights hearing, and state courts) can request a search when a child custody, parental termination, or adoption related proceeding has been filed in court.

Would a national system be financially self-sustaining?

We believe it would. Some states, including GA and IL, charge for registry searches to fund their registries. Other states, including MO and IN, charge court filing fees to fund their state registries.

Missouri charged an adoption filing fee of \$50, resulting in over \$300,000 surplus, which has more than covered the cost of creating and maintaining the MO registry and could be used to fund public education on the registry.

In Illinois, only private agencies and attorneys (not public entities) pay a user search fee of \$40 to search the registry.

Would possible fathers who register be potentially liable later for child support payments?

Yes, registered fathers could be liable for child support payments if their paternity is later verified. This legislation requires that possible fathers who register be informed of this possibility. However, the information contained in his registration may not be used against the man in any criminal matter.